IN THE HIGH COURT OF PUNJAB & HARYANA CHANDIGARH

Criminal Revision No.509 OF 1995
Date of Decision: October 10, 2007

BALBIR SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr. B.K.Bagri, Advocate,
for the petitioner.

Mr. K.S.Godara, DAG, Haryana.

A.N.JINDAL, J

Assailed in this petition is the judgment dated 11.07.1995 passed by Additional Sessioin Judge, Jagadhari dismissing the appeal of the accused petitioner (hereinafter referred to as the 'petitioner') against the judgment dated 07.10.1994/11.10.1994 passed by Chief Judicial Magistrate, Jagadhri convicting him under Section 27(a)(iii) and Section 28 of the Drugs and Cosmetics Act, 1940(hereinafter referred to as the 'Act') and sentencing him for one year and to pay a fine of Rs. 1,000/-.

The factual matrix as essential for disposal of the present petition is that on 13.12.1982 District Drugs Inspector, Ambala raided the premises of the petitioner in the company of Dr. V.K.Wadhawan who was a registered medical

practitioner as defined under Rule 2(ee) of the Act. The petitioner failed to produce the records pertaining to his competency to practice in the allopathy drugs. The petitioner vide his categoric statement disclosed that he was registered medical practitioner. The drugs recovered from the shop were taken into possession along with two glass syringes of 5 m.l and 2 m.l etc. The drugs so seized were put in a box and have been sealed by District Drugs Inspector with a seal bearing impression K.K. Thereafter, the drugs so seized along with the petitioner were produced before Chief Judicial Magistrate Ambala on 13.12.1982. Then after obtaining the custody orders from Chief Judicial Magistrate the drugs were duly deposited. The petitioner was also served with registered show cause notice as to why the prosecution should not be launched against him.

Ultimately the complaint was lodged. In pursuance of the notice he put in appearance in the Court; pre-charge evidence was recorded which was followed by a charge under Section 27(a)(ii) and Section 28 of the Act against him to which he pleaded not guilty and claimed trial.

After recording 3 prosecution witnesses namely K.K.Maheshwari(PW1), Dr. Sudarshan Bhardwaj (PW2) and Dr. V.K.Wadhawan(PW3). The statement of the accused under Section 313 of the Code of Criminal Procedure was recorded. The trial ended in conviction. The appeal was also dismissed.

At the very outset the counsel for the

petitioner has not challenged the judgment of conviction even otherwise having scanned through the evidence, it is revealed that the evidence has been rightly appreciated by both the courts. No illegality or perversity is found in the judgment, warranting interference by this Court.

As such the judgment of conviction as recorded by the courts below is maintained.

Now coming to the question of sentence the occurrence in this case took place in the year 1983. The accused was practicing without obtaining a proper licence, yet it has been informed that the petitioner has improved his qualifications for practicing. It is not the case of the prosecution that the petitioner had kept the medicines for sale. Even otherwise he has already suffered a lot due to the proceedings lingering on for the last 22 years. No bad antecedents of the petitioner has been brought forward by DAG, Haryana so as to deny him the benefit of the probation, however the State could be compensated by awarding adequate costs.

Consequently, while dismissing the appeal and maintaining the judgment of conviction passed by lower appellate Court, the sentence awarded to the petitioner is modified to the extent that the petitioner is ordered to be released on probation of good conduct under Section 4(1) of the Probation of the Offenders Act, 1958 and it is directed that the petitioner will keep peace and be of good conduct and that he would not repeat any such offence in future within a

period of one year on furnishing of personal bond in the sum of Rs.10,000/- with one surety in the like amount. On failure to comply with the terms of the bond he will be ready to serve the sentence. Besides the fine which is converted into cost of litigation he is directed to pay further a sum of Rs.25,000/- on account of costs, which will be deposited by him within 3 months failing which this revision petition will be treated as dismissed.

(A.N.JINDAL)
JUDGE

October 10, 2007
Ruchika

To be referred to reporter: Yes/No